

**Illinois Commerce Commission
On Its Own Motion**

vs.

Central Illinois Light Company

**Reconciliation of revenues
collected under the EPA Charge
with actual costs.**

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04-0113

PROPOSED FORM OF ORDER

By the Commission:

In 1992, the Environmental Protection Act ("EP Act"), 415 ILCS 5/1 et seq., was amended to create the Clean Air Act Permit Program, 415 ILCS 5/39.5. The EP Act, as amended, authorized the Illinois Environmental Protection Agency to assess an annual fee of \$18.00 per ton, but not to exceed \$250,000 per source, for the allowable emissions of all regulated air pollutants. Section 9-220.1 was added to the Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq., in 1992 to allow any electric public utility to file a separate tariff designed to recover fees paid under subsection 18 of Section 39.5 of the EP Act.

Central Illinois Light Company d/b/a AmerenCILCO ("Respondent" or "AmerenCILCO") filed such a tariff ("EPA Charge") in 1995. That tariff is identified as "Rider EPA" and the rider is part of CILCO's electric tariff.

On February 19, 2004, the Illinois Commerce Commission ("Commission") entered an Order Commencing Reconciliation Proceedings in accordance with the

requirements of Section 9-220.1 of the Act. The Order directed Respondent to present evidence in this docket at a public hearing to show the reconciliation of amounts collected under the Rider EPA with the amounts properly disbursed by it under subsection 18 of Section 39.5 of the EP Act.

Notice of the filing of Respondent's testimony and exhibits in this proceeding was posted in Respondent's business offices and published in various newspapers and publications of general circulation in Respondent's electric and gas service territories, all in accordance with the requirements set forth in 83 Ill. Adm. Code 255 and in compliance with the Commission's February 19, 2004 Order in this proceeding.

Pursuant to proper legal notice, a hearing was held in this matter before a duly authorized Administrative Law Judge of the Commission at its offices in Springfield, Illinois, on July 20, 2004. Appearances were entered by counsel on behalf of Respondent and by members of the Commission Staff ("Staff"). Evidence was presented by Respondent and Staff and at the conclusion of the hearing, the case was continued for the Parties to determine a mechanism for the elimination of Rider EPA.

In October 2003, AmerenCILCO transferred its power plants to a subsidiary, AmerenEnergy Resources Generating Company. Because of that transfer, Rider EPA will no longer be used by AmerenCILCO to collect the fees from its customers. In Docket No. 04-0521, AmerenCILCO filed a petition for special permission to place rate schedules into effect, on less than forty-five days' notice, revised tariffs to provide the mechanism to either refund or surcharge customers for any over-recoveries or under-recoveries to be determined under Rider EPA and to eliminate the Rider. The Company's petition was granted by the Commission on September 9, 2004. An

additional hearing was held on September 7, 2004 in the instant proceeding at which the record was marked "Heard and Taken". No petitions to intervene were received in this proceeding.

The evidence submitted by AmerenCILCO shows the actual costs incurred during 2003 for fees paid by AmerenCILCO pursuant to the provisions of subsection 18 of Section 39.5 of the EP Act and reconciles those costs with the amounts recovered for such costs through AmerenCILCO's EPA Charge for the same year. The evidence shows an under-recovery of costs by CILCO of \$6,527.95 for the calendar year 2003, reflecting corrections proposed by Staff, shown in AmerenCILCO Schedule 2.1.

AmerenCILCO's EPA Charge reconciliation for 2003 can be summarized as follows:

<u>Description</u>	<u>Amount</u>
EPA Fees	
Title V Permit Fee – Duck Creek Station	\$ 125,000.00
Title V Permit Fee – E.D. Edwards Station	125,000.00
Annual Air Pollution Control State Site Fee – Hallock	1,136.00
Annual Air Pollution Control State Site Fee – Kickapoo	1,136.00
Balance in Account for 2002 EPA Fees	8,547.35
Factor Fi – Interest Associated EPA Fees	
Title V Permit Fee – Duck Creek	593.75
Title V Permit Fee – Edwards	593.75
Annual State Site Fee – Hallock	7.10
Annual State Site Fee – Kickapoo	7.10
Balance in Account for 2002 EPA Fees	106.43
Rider EPA Recoveries	
November 2003 Recovery	(\$105,656.47)
December 2003 Recovery	<u>(149,943.06)</u>
Under-recovery at December 31, 2003	\$ 6,527.95
Net under-recovery for 2003	\$ 6,527.95

On behalf of the Commission Staff, Ms. Carolyn Bowers of the Accounting Department of the Financial Analysis Division of the Commission issued data requests concerning the revenues collected under the rider tariff and costs recoverable under such tariff. The Staff reviewed the Company's filing and responses to data requests.

Ms. Bowers also testified on behalf of the Staff. In her prepared direct testimony, (ICC Staff Exhibit 1.0), Ms. Bowers proposed three adjustments to the Company's costs. Those adjustments are as follows:

- 1) A correction to the 2002 net under recovery balance to agree with the 2002 reconciliation approved by the Commission;
- 2) The removal of a National Pollution Discharge Elimination System ("NPDES") fee that is not recoverable under Rider EPA; and
- 3) Elimination of the interest associated with the NPDES fee.

AmerenCILCO witness Mans agreed with Staff's adjustments in AmerenCILCO Exhibit No. 2.0.

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) AmerenCILCO is a corporation engaged in transmission and distribution of electricity and in the distribution of gas to the public in Illinois and is a public utility as defined in the Act and until October 2003, was engaged in the generation of electricity within the State of Illinois;
- (2) the Commission has jurisdiction over AmerenCILCO and of the subject matter of this proceeding;
- (3) the statements of fact set forth in the prefatory portion of this Order are supported by the evidence in the record and are hereby adopted as findings of fact;
- (4) the evidence shows that during calendar year 2003, Respondent acted reasonably and prudently in its payment of fees under subsection 18 of

Section 39.5 of the EP Act;

- (5) for calendar year 2003, AmerenCILCO has satisfactorily reconciled amounts collected under the EPA Charge in Rider EPA with the amounts properly disbursed by it under subsection 18 of Section 39.5 of the EP Act; AmerenCILCO experienced an under-recovery of \$6,527.95 as of December 31, 2003; AmerenCILCO will offset the under-recovery of \$6,527.95 for the year ended December 31, 2003 with revenues collected in 2004 under the EPA Rider as revised in Docket 04-0521.

IT IS THEREFORE ORDERED by the Commission that the reconciliation submitted by AmerenCILCO of the amounts collected under the EPA Charge with the amounts properly disbursed by it under subsection 18 of Section 39.5 of the Environmental Protection Act, as summarized above, is hereby approved.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.800, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this ____ day of _____, 2004.